

COMPLAINT NUMBER	19/052
COMPLAINANT	N Jackson – Alcohol Health Watch
ADVERTISER	Moët Hennessy
ADVERTISEMENT	Moët & Chandon, Digital Marketing
DATE OF MEETING	20 February 2019
OUTCOME	Settled (advertisement removed)

Advertisement: As an official sponsor of the ASB Classic tennis tournament, the Moët Hennessy digital marketing advertisement shows rugby players Beauden Barrett and Damian McKenzie along with Spanish tennis player Pablo Carreño participating in a champagne pouring competition. The Instagram post appears on the Advertiser and event organisers' Instagram accounts as well those of as Beauden Barrett and Damian McKenzie.

The Chair ruled the complaint was Settled

Complainant, N Jackson, said: I am writing with regards to an alcohol sponsorship advertisement that appears to contravene Principle 4 of the Code for Advertising and Promotion of Alcohol. Breaching this section of the Code then requires that the advertisement be considered as an alcohol advertisement in relation to assessment of compliance with the other three Principles of the Code.

It is clear from the ASB Classic website that Moët & Chandon is an official sponsor of the tennis tournament that took place in Auckland in January 2019. As such, any advertisements that relate to this sponsorship would be considered as sponsorship advertisements.

The advertisements I refer to are Instagram posts by the ASB Classic tennis tournament (@asbclassic <https://www.instagram.com/p/BsU-wOHlt94/>) and are similarly featured on the Instagram accounts of Beauden Barrett (@beaudenbarrett <https://www.instagram.com/p/BsW-gYhIEnc/>) and Damian McKenzie (@damianmckenzie https://www.instagram.com/p/BsZZ_TsBuzR/). These are shown below and overleaf.

Part of, or complementary to, the sponsorship was an event where Beauden Barrett and Damian McKenzie took part in a competition to pour three flutes of Moët & Chandon champagne. Also participating in the event was visiting Spanish tennis player Pablo Carreno

The Code defines a sponsorship advertisement as an advertisement which clearly indicates that the advertiser is sponsoring a person, competition, activity or event. This would apply to the Instagram posts, given the partnership between Moët and the ASB Classic (below):

In addition, the ASB Classic website lists Moët & Chandon as an official sponsor and I assume that the champagne pouring competition was a promotional event as part of this sponsorship arrangement. Hence, I consider that advertisements relating to this event by the sponsor would be considered as sponsorship advertisements as defined in the Code.

If the advertisements were to be considered a sponsorship advertisement then there appears to be a breach of Principle 4 of the Code.

Guideline 4(b) states that any sponsorship advertisement shall not show a product or product packaging. In the above Instagram posts, the product and packaging are clearly visible.

Whilst I do not foresee a breach of Principle 4(d) of the Code (i.e., shall not portray consumption of alcohol), raising three glasses in a toast certainly portrays that consumption is likely to occur.

Guideline 4(e) appears to have been breached as the sponsors name, brand name, and logo are portrayed in a fashion that could not be characterised as brief or subordinate. Certainly the ASB Classic tournament is listed on the posts, but it is the tennis event itself which would be more likely to be characterised as brief or subordinate in the advertising.

The Code states that an advertisement referring to a sponsorship that does not comply with Guidelines 4(a) to 4(e) of Principle 4 is deemed to be an alcohol advertisement. Should the Complaints Board decide there is non-compliance to Principle 4, I wish to highlight other issues with regards to the advertisements that appear to contravene Principle 3 of the Code, of which the following guidance is issued by the ASA:

In order to minimise the appeal of alcohol products to minors, heroes that minors may wish to emulate or that have strong appeal should not be included in alcohol advertising that includes images of products and/or sales messaging, intended to promote the sale and consumption of alcohol in non-restricted areas where minors are likely to see such advertising.

The Instagram posts feature both heroes of the young and images of products intended to promote the sale and consumption of alcohol. Beauden Barrett and Damian McKenzie, as high profile members of the All Blacks rugby team, are very likely to be considered heroes of the young. Indeed, the All Black players have been identified by the ASA as heroes of the young. I do not consider Carreño to be hero of the young as it applies to the Code.

In relation to the advertising appearing in non-restricted areas, I cannot be certain if the Instagram accounts of @beaudenbarrett, @damianmckenzie, @asbclassic, or #Moët Moment are restricted or age-gated. If they are not, the advertising therefore appears in non-restricted areas where minors will be exposed. Although the advertisements are not directed at, or targeted to, minors, the use of heroes of the young with images of products appears to contravene Principle 3 of the Code as detailed in the above guidance notes.

Further, I raise attention to the advertisements featuring a person (Damian McKenzie) known to be under the age of 25 years, breaching Principle 3 of the Code and in particular guideline 3(a).

I request that this complaint be given thorough consideration by the Complaints Board. Should the advertiser take self-regulatory actions in response to this complaint, I would still appreciate the Complaints Board providing an indication of whether the advertisement / sponsorship advertisement does or does not breach the principles and guidelines of the Code.

I append supplementary material detailing the sponsorship event to assist the Chair and the Complaints Board in their consideration. Many of the images were used and shared in non-restricted media.

The Advertiser, Moët & Hennessy Australia New Zealand, said:

Thank you for your letter of 11 February 2019 in respect of the complaint received from Nicki Jackson, Executive Director of Alcohol Healthwatch.

Upon review of the complaint, we note that:

1. the complaint has been raised with:

(a) ASB Classic, and will be discussed with ASB Classic as part of the ASB Classic 2019 formal debrief process; and

(b) Beauden Barrett's and Damian McKenzie's management team, and we will discuss and work with Beauden Barrett and his management team in respect of future imagery featuring our product;

2. we have been advised that the imagery referenced in the complaint has been removed; and

3. we have circulated copies of the Code for Advertising and Promotion of Alcohol to relevant Moët staff members, and will discuss further at our Moët Hennessy New Zealand conference next week.

We take all complaints seriously and consider the above actions will avoid this occurring again in the future.

Tennis Auckland, **said:**

Upon review of the complaint we have undertaken the following actions;

1. Removal of imagery referenced in complaint from ASB Classic social media as of Tuesday 12 February,
2. The complaint has been raised with Moët and will be discussed with Moët as part of the ASB Classic 2019 formal debrief process,
3. Circulation of the Code for Advertising and Promotion of Alcohol to relevant ASB Classic staff.

We take any complaints regarding the ASB Classic very seriously and believe the above actions will ensure that this does not happen again in the future

The relevant provisions were Code for Advertising and Promotion of Alcohol – Principle 3, Guideline 3(a), Principle 4, Guidelines 4(b) and 4(e).

The Chair noted the Complainant's concern the advertisement was breaching the Code for Advertising and Promotion of Alcohol by showing product in a sponsorship advertisement, using heroes of the young to promote alcohol and featuring an individual under 25 years.

The Chair considered two preliminary matters:

Consideration by the Complaints Board

The Chair noted the request from the Complainant for the Board to consider whether the Code had been breached even if the advertiser took self-regulatory action. The Chair confirmed that the Complaints Board had delegated the role of determining when a complaint could be settled to the Chair. The Chair noted that removal of the advertisement to settle a complaint was the equivalent outcome to the Board upholding the complaint and meant the advertisement could not be used again.

Alcohol or sponsorship advertisement

The Chair confirmed the definition of 'sponsorship advertisement' in the Code states in part: "Any advertisement referring to a sponsorship that does not comply with Guidelines 4(a) to 4(e) of Principle 4 is deemed to be an alcohol advertisement."

The Chair noted that no explicit sponsorship statement was made in the Instagram post, the advertisement included images of Moët & Chandon and referred to the brand. Therefore, the Chair said the advertisement was an alcohol advertisement for the purposes of the Code and Principle 3 applied.

Application of the Code and action taken

The Chair noted that current All Blacks appeared in the Instagram post with an alcohol product. All Blacks have been designated heroes of the young in previous Complaints Board decisions (92/147 and 08/448) and in the Guidance Notes for the Code for Advertising and Promotion of Alcohol issued in 2013.

The Chair then took into account the responses from Moët Hennessy and Tennis Auckland. Tennis Auckland confirmed the posts were removed from all the relevant Instagram pages on 12 February, upon receipt of the complaint. Both responses confirmed the ASA Code for Advertising and Promotion of Alcohol has been circulated to all relevant staff and discussion would be held with parties about their obligations under the Code.

The Chair noted the co-operative engagement with the ASA process from Moët Hennessy and Tennis Auckland.

She said taking into account the self-regulatory action to promptly remove the advertisement and the undertaking, through education, to minimise the risk of a re-occurrence and another Code breach, it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled that the matter was settled.

Chair's Ruling: Complaint **Settled – advertisement removed**

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.